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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,542	09/08/2003	Albert T. Chow	1999-0674Con	9892

26652 7590 11/02/2005

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EXAMINER

TRINH, TAN H

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,542

Applicant(s)

CHOW ET AL.

Examiner

TAN TRINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No.6643504. Although the conflicting claims are not identical, they are not patentably distinct from each other, because the limitations of the claims of the instant application are broad enough to be encompassed by the limitations of the claims 1-19 of the U.S. Patent No.6643504, and as such it would have been obvious to one of ordinary skill in the art to implement the claims of the instant application using the claims of the U.S. Patent No.6643504 in order to implement a method and system using.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7-12, 14-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (U.S. Patent No. 5448619).

Regarding claim 1, Evans teaches a method of activating and authenticating a wireless device in a secondary wireless communication system co-located with a primary wireless communication system (see fig. 1), the method comprising: masking the control and activation signal strength associated with the primary wireless communication system (in this case, masking as claimed reads on the fact that the strength of the private control channel CC1 is greater than the strength of the public control channel CC2 in order to shield or block the control channel of the public system as disclosed at column 3, lines 58-65); and coupling control and activation signals of the secondary wireless communication system to the wireless device during the masking (see fig. 1, col. 3. lines 33-col. 4, line 3, and col. 2, lines 11-22).

Regarding claim 2, Evans teaches wherein: masking the control and activation signal strength further comprises devising an activation and control signal of the secondary wireless communication system so that it exceeds in magnitude the activation and control average signal strength of the primary wireless communication system as masked within defined spatial limits (see col. 3, lines 58-65); and coupling control and activation signals further comprises operating the wireless device for activation purposes within the defined spatial limits (see fig. 1, col. 3. lines 33-col. 4, line 3 and col. 1, lines 49-52).

Regarding claim 3, Evans teaches wherein coupling control and activation signals further comprises generating control and activation responses mimicking control and activation

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scenarios of an interaction with the co-located wireless communication system (see fig. 1, col. 3, lines 33-col. 4, line 3, and col. 2, lines 11-22).

Regarding claim 4, Evans teaches wherein: masking further comprises blocking radiation of the higher activation and control average signal strength within a limited space at which the wireless device couples with activation and control signals (see col. 3, lines 58-65).

Regarding claim 5, Evans teaches wherein: masking further comprises directionally controlling control and activation signal radiation of the secondary wireless communication system (see col. 3, lines 53-col. 4, lines 12).

Regarding claim 7, Evans teaches wherein the activation and control signal of the secondary wireless communication system operates at identical frequencies used by the control and activation average signal strength of the co-located wireless communication system (see col. 4, lines 13-28).

Regarding claim 8, Evans teaches wherein the secondary wireless communication system is a private local communication system (see fig. 1, col. 1, lines 7-12 and col. 2, lines 58-63).

Regarding claim 9, Evans teaches wherein the primary wireless communication system is dominant wireless communication system (see public radio system, col. 2, lines 50-col. 3, line 2).

Regarding claim 10, Evans teaches wherein the primary wireless communication system operate at a higher control and activation average signal strength (see col. 3, lines 58-65, since the primary wireless communication system operate at a higher control and activation average signal strength that is on the actual coverage area, and when the private local communication system has to adjust the signal strength to make sure the user with in the desire coverage area are locked on).

Regarding claim 11, Evans teaches a secondary wireless communication system overlapped by a primary wireless communication system (see fig. 1), and including radio access for activation and authentication of a wireless device in the secondary wireless communication system (see fig. 1, col. 3. lines 33-col. 4, line 3 and col. 1, lines 49-52), the secondary wireless communication system comprising: an automated private service activation (APSA) port for accepting access requests of a wireless device seeking activation in the secondary wireless communication system (see col. 3, lines 33-52), the APSA port radiating access control channel signals within limited spatial constraints; and a localized space for operating the secondary wireless communication system for wireless devices activated by the APSA port (see col. 3, lines 58-65).

Regarding claim 12, Evans teaches wherein the APSA port provides the access control channel radiating signals at a level exceeding a signal level of the secondary wireless communication system only within limited spatial constraints (see col. 3, lines 58-65).

Regarding claim 14, Evans teaches wherein the APSA port comprises a surface covering an antenna for placing a wireless device in proximity to the surface to achieve access and authentication (see figs.1-2, antenna 16, C1 and wireless device M1), wherein the access control channel radiated signal exceeds a control channel signal level of the primary wireless communication system (see col. 3, lines 58-65).

Regarding claim 15, Evans teaches wherein the APSA port further includes an antenna accessible to a wireless device seeking access and authentication that includes shielding that blocks a control signal level of the overlapping primary wireless communication system (see figs.1-2, antenna 16, and col. 3, lines 33-col. 4, lines 3).

Regarding claim 16, Evans teaches wherein the primary wireless communication system is a dominant wireless communication system over the secondary communication system (see public radio system, col. 2, lines 50-col. 3, line 2).

Regarding claim 17, Evans teaches a method of accessing and achieving authentication from a secondary wireless communication system in a region overlapped by a dominant wireless communication system (see fig.1), the method comprising: creating an access signal space in which radiated access control signal levels of the secondary wireless communication system within the access signal space exceed access control signal levels of the dominant wireless communication system (see fig.1, col. 3, lines 53-65); receiving a wireless device seeking access to the secondary wireless communication system within the access signal space (see fig.1, col. 3,

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lines 44-57); receiving a search from the wireless device for a strongest control channel (see col. 3, lines 44-57); selecting the control channel of the secondary wireless communication system by reason of the proximity of the wireless device within the access space (see col. 4, lines 4-35); and authorizing and authenticating the wireless device for operation within the secondary wireless communication system (see col. 4, lines 13-45).

Regarding claim 18, Evans teaches further comprising: enabling the secondary wireless communication system to interwork with the dominant wireless communication system (see fig. 1, col. 4, lines 4-52).

Regarding claim 20, Evans teaches wherein the wireless device receives a number associated with the wireless device and service provider information in advance of accessing the secondary wireless communication system for allowing administration of services within the secondary wireless communication system (see col. 1, lines 21-col. 2, line 68 and col. 3, line 1-2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent No. 5448619).

Regarding claim 6, wherein: coupling further comprises providing both analog and digital control and activation signals. That is well known in the art, when the cell-phone is operated in dual mode (analog and digital), and that is obvious to the system for providing both analog and digital control and activation signals, so that the system can control on both analog and digital cellular phones.

Regarding claim 13, Evans teaches wherein the APSA port is part of a base station having both analog communication channels and digital communication channels (see fig. 1, and see the rejection on claim 6 above).

Regarding claim 19, further comprising: billing service while in the secondary wireless communication system through the dominant wireless communication system (see col. 5, lines 1-5, Evans teaches the private system can be increment of services and reap increased revenues, that is obvious to billing service if the private system can increased revenues, for the billing service on which end that is depend on who own the system).

Conclusion

6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for Technology Center 2600 only)

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Hand-delivered responses should be brought to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

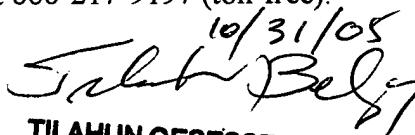
If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Nay Maung, can be reached at (571) 272-7882.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is (703) 306-0377.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh
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10/31/05

TILAHUN GESESSE
PRIMARY EXAMINER

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